

No. 5:10-CR-238-3F

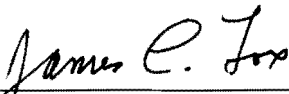
ORDER

The Federal Rules of Appellate Procedure allow a district court to extend the time for filing a notice of appeal. *See* FED.R.APP.PRO. 4(b)(4). The Fourth Circuit, however, currently has jurisdiction over this action. Therefore, the court DENIES WITHOUT PREJUDICE Tyer's Motion [DE-192]. The court will take notice of Tyer's motion if the Fourth Circuit remands the case to this court to make an excusable neglect determination. *See, e.g., United States v. Simpson*, 374 Fed. Appx. 462 (4th Cir. 2010)(deferring action on the Government's motion to

dismiss an appeal in a criminal case as untimely and remanding the case to the district court to determine whether the appellant had shown excusable neglect or good cause).

SO ORDERED.

This the 27th day of February, 2012.



James C. Fox
Senior United States District Judge